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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/830,130

04/21/2004

Thomas Albertson

SYNT-0199

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53443 7590 12/28/2007  
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EXAMINER

ARAJ, MICHAEL J

ART UNIT

PAPER NUMBER

3733

MAIL DATE

DELIVERY MODE

12/28/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/830,130	ALBERTSON ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Michael J. Araj	3733	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 02 October 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-80 is/are pending in the application.
- 4a) Of the above claim(s) 49-74 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14, 16-21, 23-26, 28, 29, 36-38, 41-48 and 75-80 is/are rejected.
- 7) ☒ Claim(s) 15, 27, 30-35, 39 and 40 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 November 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Objections***

Claims 23-25 are objected to because of the following informalities: These claims are dependent from a canceled claim which is not valid. For examination purposes these claims will be interpreted as being dependent from claim 1. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4, 6-8, 10-13, 16, 17, 20, 21, 26, 28, 29, 42, 45-48 and 75-80 are rejected under 35 U.S.C. 103(a) as being unpatentable over Aram (U.S. Publication No. 2005/0171547) in view of Kowata et al. (U.S. Patent No. 4,682,849).

Aram discloses a reconstruction system comprising a flexible cable (18) having first and second ends, a crimp fitting member (14), at least one locking cannulated threaded screw (444) and at least one reconstruction plate (250) comprised of a plurality of holes, wherein the first end of the cable comprises a crimp fitting member and wherein the crimp fitting member comprises a flat round disk-like head. The crimp fitting member comprises a preinstalled flattened disk-like crimp head having a diameter

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of from about 2mm to about 10mm and a thickness of from about .1mm to about 4mm and being composed of stainless steel. The crimp head has rounded edges and is designed to mate with the top surface of a cannulated screw or reconstruction plate. The cable has a diametrical hole sized to accommodate the flexible cable. The crimp shaft is cylindrically shaped and located on the lower surface of the crimp head. The flexible cable is comprised of a single strand wire and is cerclage wire and configured to lock with a bone fastener. Because these pieces are disclosed together, they are considered to be in a kit.

Aram discloses the claimed invention except for the second end of the cable comprising a thermally fused end. It is a very common practice to use thermally fused ends to connect the end of a fiber/cable to another item such as in Kowata et al. (Col. 3, lines 9-12) It would have been obvious to one skilled in the art at the time the invention was made to have created the device of Aram with a thermally fused end in view of Kowata et al., in order to be able to attach other useful items to the other end of the cable.

Claims 5, 9, 14, 18, 19 and 36-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Aram (U.S. Publication No. 2005/0171547).

Aram discloses the claimed invention except for the crimp head being of a polygonal shape, the lower surface of the crimp head being flat or the crimp shaft being of a non-circular cross-section. It would have been an obvious matter of design choice to one skilled in the art at the time the invention was made to construct the crimp head and shaft in these manners, since applicant has not disclosed that such solve any

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stated problem or is anything more than one of numerous shapes or configurations a person ordinary skill in the art would find obvious for the purpose of providing a forming edge in the heating portion or clamp. In re Dailey and Eilers, 149 USPQ 47 (1966).

With regard to claims 18, 19, 31, 37 and 38, it would have been obvious to one having ordinary skill in the art at the time the invention was made to construct the diameters, lengths and angles of the plate holes in the ranges claimed, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. In re Aller, 105 USPQ 233.

#### ***Allowable Subject Matter***

Claims 15, 27, 30-35 and 39-40 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See PTO-892 for art cited of interest.

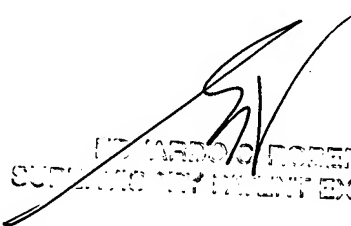
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael J. Araj whose telephone number is 571-272-5963. The examiner can normally be reached on M-F 8am-5pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eduardo Robert can be reached on 571-272-4719. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
MJA

  
EDUARDO ROBERT  
SUPERVISING PATENT EXAMINER